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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by South Asia Human Rights Documentation Centre, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

The legally identified enemies of Bangladesh: Reply to the "Comments of the Government of Bangladesh on the written statement by the South Asia Human Rights Documentation Centre (SAHRDC) contained in document E/CN.4/2000/NGO14 of the 56th Session of the Commission on Human Rights" (E.CN.4/2001/18)

At the 56th Session of the Commission on Human Rights, SAHRDC submitted a written statement (E/CN.4/2000/NGO14) on the plight of the legally identified enemies in Bangladesh. Hundreds of thousands of persons including those belonging to the minority Hindu community as well as indigenous peoples, have been dispossessed of their properties under the Vested Properties Act, a reincarnation of the Enemy Properties Act passed by the former Government of East Pakistan.

The Government of Bangladesh submitted its reply (E.CN.4/2001/18) at the 57th Session of the CHR after examining the SAHRDC document. The Government however failed to respond to specific concerns raised by SAHRDC. These included a case of land-grabbing referred to in the statement. Rather, it used terms such as "baseless," "seemingly tendentious," and "factually inaccurate" to describe SAHRDC's statement.

SAHRDC is aware of the use of such defensive phraseology by many governments. The following reply to the Comments of the Government of Bangladesh, it is hoped, will determine which statement is "baseless, seemingly tendentious and factually inaccurate."

Para 1:

The Government of Bangladesh states: "The very title of the SAHRDC statement, "violation of economic, social and cultural rights of the legally identified enemies of Bangladesh" is misleading. There is no legally identified enemies of Bangladesh, legally or otherwise. The assertion of SAHRDC is baseless and tendentious."

The existence of 'enemies' is implicit in the very title of the "Enemy Properties Act" passed by the then Government of Pakistan and the Enemy Property (continuance of Emergency Provisions) (Repeal) Act, 1974 of the Government of Bangladesh. As the Government of Bangladesh states in para 3: "Following the emergence of Bangladesh as an independent and sovereign country in 1971... All the "enemy properties" which were vested in the former Government of East Pakistan were declared as vested in the Government of the People's Republic of Bangladesh (vesting property and assets) order, 1972 (P.O.No. 29/72) and the Enemy Property (continuance of Emergency Provisions) (Repeal) Act, 1974."

The United Nations Special Rapporteur on Religious Intolerance, Abdelfattah Amor after his visit to Bangladesh from 15-24 May 2000 stated in his Interim Report to the Millennium Session of the General Assembly (A/55/280/Add.2 dated 9 August 2000):

> "31. After Bangladesh won independence from Pakistan, the President of Bangladesh, in his Order No. 29 of 1972, changed the nomenclature to Vested Property Act, without altering the content of the law."

The definition of "enemy" as provided under the Defence of Pakistan Rules is still applicable. Under Section 3(b)(i) of the "Enemy Property (Continuance of Emergency Provisions (Repeal) Act 1974 (Act XLV of 1974) adopted by the Government of Bangladesh, "enemy property" and "enemy firms" are defined as below:

> "Enemy property" and "enemy firms" shall have the same meaning as are respectively assigned to them in the Defence of Pakistan Rules continued in force by the said Ordinance."

Clearly, "legally identified enemies" do exist in Bangladesh.

Para 4:

In para 4, the Government of Bangladesh states: "No property of any bonafide Bangladeshi Hindu National has been enlisted as vested property since independence of Bangladesh till date."

The assertion of the Government of Bangladesh is untrue.

The Special Rapporteur on Religious Intolerance stated in his report: "Furthermore, to this day, interest groups and individuals continue to appropriate property belonging to the Hindu community, and indeed to do so with the complicity of the authorities and of influential people. In a significant number of cases, Hindus are dispossessed of their property, even when they are the legal owners of such assets." (Para 31, page 7, A/55/280/Add.2)

The Ain O Salish Kendra (Law and Arbitration Centre), a Bangladeshi NGO, in its report, 'Power, Safety and the Minorities: A Brief Report,' in May 2000 stated:

> "In 1999, about 29 cases of forceful occupation of land and property of the Hindu community have been reported in different newspapers. These include their homesteads, farmlands and religious places. Influential political forces and their goons have also occupied many of the properties listed as vested property. In 1999 in the Sunamgonj district out of 21,000 acres of vested property land 16,000 acres have been illegally occupied (*Bhorer Kagoj*, 17.5.1999); likewise in the Mymensingh district out of 29,722 acres of vested property land, 28,000 acres of land and 300 houses (vested property) have been occupied by one influential person (*Bhorer Kagoj*, 12.5.1999)... Statistics as cited in the ASK Human Rights Report (p.193-194) show that in 1995, 72 per cent of all vested property was acquired by members of Bangladesh National Party (BNP); and in 1998, 44 per cent was acquired by the Awami League and 32 per cent by the BNP." (http://www.dailystarnews.com/200005/26/n0052609.htm#BODY2)

Para 5:

In para 5, the Government of Bangladesh states, "Vested property verification committees were formed in 1993 at Thana, Pourashava and City-corporation levels with a view to detecting fraudulent and wrong enlistment of properties and illegal possession thereof. The verification was not intended to put the Hindu minority community to harassment."

SAHRDC was surprised to note that the Government of Bangladesh has misquoted the direction of its own Law Ministry (Memo No Bhu/7-5/Arpita(Nitimala)/117/42(Angsha)/638(61) dated 4 November 1993.) The ministry's order clearly stated that it was also to "determine whether there are other enemy properties." The order further states:

> "Ga) If the Committees find out any concealed properties it will investigate into the matter and bring it to the notice of the Government..."

It was under the above direction that property belonging to 61 Hindu families in Ashefpur and Chawkjara village of 14 Ashefpur Union, and in Ganda Gram of 10 Sultanganj Union under Bogra Sadar police station were identified as Enemy Properties.

Para 6:

In para 6, the Government of Bangladesh states that it has examined the report by the Association for Land Reform and Development (ALRD) and has highlighted the shortcomings of the report.

SAHRDC is aware of the assumptions made by ALRD in respect of the missing Hindu population. In SAHRDC's view ALRD's samples are not confusing but indicative of the intensity of the problem. Moreover, ALRD is not the only NGO to have attempted to record cases of dispossession. According to the Ain O Salish Kendra:

> "The 1991 census estimated that the Hindu population has declined by 0.3 per cent since 1974. Fear of loss of property, under the Vested Property Act 1974, or fear of communal violence has induced the migration of Hindus from the country." (Human Rights in Bangladesh 1998, ASK, Dhaka 1999, p.192).

SAHRDC stands by the assertion made in its written statement (E/CN.4/2000/NGO14): "Holding elections is not the only yardstick of measuring democracy or health of a society. If gross violation of the economic rights of the Hindu minority is a yardstick, tyranny of the majority rules the roost in Bangladesh. Any society which claims itself to be civil and democratic, should have no place for such a discriminatory Act..."

The wave of systematic attacks on the minority Hindu community across the country in the weeks following the 1 October 2001 General Elections is reflective of SAHRDC's assertion. By 8 October 2001, at least 30 people had been killed and more than 1,000 others injured. Their houses were torched, ransacked and in many cases seized, women were raped.

A large number of Hindus fled their homes, becoming internally displaced. Many others fled to the Indian states of Assam, Tripura and West Bengal.

On 24 November 2001, the High Court ordered the Government to explain why it had not taken steps to stop post-election attacks and harassment of minorities. In response to a petition filed by a rights organisation, the High Court on 27 November 2001 further ordered the Government to investigate the incidents and submit a report by 15 January 2002.

The Government's response to the monitoring of atrocities on minorities has also been characteristically brutal. Mr Shahriar Kabir, an independent documentary filmmaker, was arrested on 22 November 2001 at on his return from Kolkata, India. He was later served a notice under the draconian Special Powers Act. Mr Kabir had gone to India to investigate the condition of Bangladeshi refugees who had fled to India and had collected evidence of their plight.

If the prosecution of Mr Kabir is any indication, the implementation of a egulation – and a flawed one at that – such as the Vested Property Return Bill passed in the Bangladesh parliament on 9 April 2001, will also remain a mirage.